



Federal Communications Commission
Washington, D.C. 20554

MAY 21 2008

In Reply Refer to:
1800B3-RDH

2-540
Rogers Holberg
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MAY 22 2008
FCC Mail Room

Charles L. Wilson, Esq.
29 Wilkes Avenue
Buffalo, New York 14215

In re: **WCKL(AM), Catskill, NY**
Facility ID No. 63526
File No. BR-20060201AKJ
Petition for Reconsideration

Dear Mr. Wilson:

Before the Media Bureau for consideration is your Petition for Reconsideration of the staff action of December 13, 2007, cancelling the license for Radio Station WCKL(AM) Catskill, New York, (the "Station") licensed to Black United Fund of New York (the "Licensee"). That license was cancelled by Commission staff pursuant to Section 312(g) of the Communications Act of 1934, as amended (the "Act")¹ for failing to transmit broadcast signals for a consecutive 12-month period.

Background. On October 4, 2007, Media Bureau staff sent Mr. James Simmons, then Acting Chairman of the Licensee, a letter warning that Commission records indicated that the Station had been silent since at least June 30, 2006 and, therefore, that its license had expired as a matter of law on July 1, 2007. Further, it warned that unless information was received within thirty days that this was not so, the Commission's public and internal databases would be modified to indicate that the Station's license had expired, the license would be cancelled, and the Station's call sign would be deleted. When no response was received, Bureau staff, on December 13, 2007, notified the Licensee that the Station's license had, indeed, expired as a matter of law, that its call sign was being deleted, and that its pending license renewal application² was dismissed.

In a Petition for Reconsideration, filed January 22, 2008, Licensee states that the Licensee is an affiliate of the National Black United Fund, Inc. ("NBUF") and that on October 11, 2007, NBUF commenced an investigation of the Licensee regarding issues completely independent of this matter. In the course of that investigation, Licensee contends, on January 7, 2008, NBUF found the Bureau's October 4, and December 13, 2007, correspondence. Licensee claims that, had it known of the October 4, 2007, correspondence it would have effectively responded thereby preventing the action taken in the December 13, 2007, letter. It states that the Station was not silent for an entire year, having returned to operation one day before July 1, 2007, one year anniversary of silence. In support, it attaches an undated letter from R.E.S. Radio Engineering Services of Red Hook, New York, ("R.E.S.") in which David W. Groth ("Groth"), a Communications Consultant, states that Groth and his company have provided engineering services for the Station for a period of seven years and that, while the station was inactive for a period of time in 2006 and 2007, it was "re-activated" on June 29, 2007, at 7:00 a.m. and continuously broadcast programming from that time until 8:25 p.m., September 2, 2007. Groth contends that during this period an operations log was maintained and all operational parameters were monitored and were in

¹ 47 U.S.C. § 312(g).

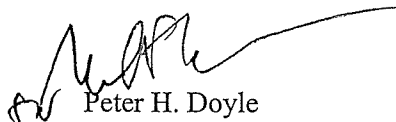
² BR-20060201AKJ

compliance. Further, Licensee asserts that it (through NBUF) discovered the breach the failure of station principals to respond to the Commission's letters and, through its independent oversight, removed Licensee's former management, installed a new President, reconstituted its Board of Directors, and retained new staff. Accordingly, Licensee asks that the Bureau set aside its prior actions and restore the Station's license, restore its call-sign and reinstate its renewal application.

Discussion. On March 28, 2008, Commission staff requested that Groth provide the operating logs that he referred to in his statement attached to the Petition for Reconsideration. In response, on May 14, 2008, you furnished transmitter and Emergency Alert System logs that provide evidence that the Station did, indeed, return to operation on June 29, 2007, and remained operational until September 2, 2007. The June 29, 2007, date is just short of the one-year anniversary of WCKL(AM) ceasing operation. Section 312(g) of the Communications Act of 1934, as amended, provides that “[i]f a broadcasting station fails to transmit broadcast signals for any consecutive 12-month period, then the station license granted for the operation of that broadcast station expires at the end of that period, notwithstanding any provision, term, or condition of the license to the contrary, except that the Commission may extend or reinstate such station license ...for any...reason to promote equity and fairness.” Accordingly, it appears the Station did not satisfy Section 312(g)’s test which requires that a station be non-operational “for any consecutive 12 month period” before its license expires as a matter of law.

Conclusion/Actions. For the above-stated reasons, Black United Fund of New York’s Petition for Reconsideration IS GRANTED. Accordingly, the license for Radio Station WCKL(AM) IS REINSTATED and Black United Fund of New York’s license renewal application (BR-20060201AKJ) for that station IS REINSTATED *nunc pro tunc*. Finally, IT IS ORDERED, that the call sign WCKL(FM) IS REINSTATED, and Licensee’s application for license renewal IS GRANTED.³

Sincerely,



Peter H. Doyle
Chief, Audio Division
Media Bureau

³ The Licensee’s license renewal application for Station WCKL(AM) was placed on Public Notice of acceptance and had the required 90-day petition period prior to our dismissal of the application.